

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES SIMS AFRICA,

Plaintiff

V.

**LT. DUKES; JULIE KERKER;
C.J. MCKEOWN; OFFICER
TEASDALE, and OFFICER NOEL,**

Defendants

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CIVIL NO. 1:10-1838

Judge Rambo

Magistrate Judge Smyser

MEMORANDUM

Before the court is a report of Magistrate Judge Smyser in which he recommends that the defendants' motion to dismiss the amended complaint (doc. 31) be granted in part and denied in part. It is recommended that all claims in the amended complaint be dismissed except the Eighth Amendment failure to protect claim against Defendant Dukes.

Plaintiff has filed objections to the report and recommendation. His basic objection is to the recommendation that officers Teasdale and Noel be dismissed. Plaintiff does not address the legal reasoning of the magistrate judge in his objection. Plaintiff continues to assert that these two defendants have participated in a conspiracy but he has failed to attack the legal reasoning of the magistrate judge.

On September 6, 2011, Plaintiff filed a renewed motion for a protective order. In that motion, he renews his objection to the recommendation that Teasdale and Noel be dismissed and that the court order that he be housed in a single cell and/or be transferred to another prison.

This court will adopt the reasoning of the magistrate judge on the defendants' motion to dismiss and will remand this matter, including Plaintiff's request for a protective order (doc. 38), to the magistrate judge. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: September 7, 2011.

